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May 20, 2020

Judge Valerie E. Caproni
U.S. District Court
40 Foley Square
New York, New York 10007

RE: Social Life Magazine Inc. v. Sentinel Insurance Co. Ltd., 20-cv-3311-VEC

Dear Judge Caproni:

I am attorney for plaintiff.

This is to correct a statement I made on the record on May 14, 2020 that there is not much New York law on whether a virus can cause physical damage as required by an insurance policy to obtain coverage for business interruption. (See attached Transcript, p. 5, lines 13-20).

In Pepsico Inc. v. Winterthur Intl Amer. Ins. Co., 24 A.D.3d 743, 806 N.Y.S.2d 709 (2nd Dept. 2005), the Court ruled that physical damage does not require a “demonstrable alteration of the physical structure” of an insured’s material. Rather, the Court ruled that the insured’s product’s function be “seriously impaired.” (copy attached).

Respectfully submitted,
/s/

Gabriel Fischbarg

cc: Charles Michael, Esq.